

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-CR-154

VAN L. MAYES,

Defendant.

OBJECTIONS TO MAGISTRATE JUDGE'S ORDER DENYING MOTIONS TO QUASH

COMES NOW the above named defendant, by Attorney Robert G. LeBell, and moves the court for a de novo review of Magistrate Judge Duffin's Order Denying the Defendant's Motion to Quash Subpoenas.

The defendant set forth a lengthy argument establishing that the prosecution was abusing the grand jury in order to obtain additional evidence rather than to investigate additional charges against him or others. During the time between the filing of the motion and the issuance of the court's order denying the request, the grand jury returned a superceding indictment adding additional charges and circumstances against the defendant. Accordingly, while the motion to quash may be considered moot, the instant objection and request for de novo review is filed to preserve appellate issues and to support an anticipated Motion to Dismiss the Superceding Indictment.

The defendant maintained and clearly demonstrated that the government was utilizing the grand jury for a prohibited purpose, to wit: to secure other evidence against an "already indicted" defendant. A prima facie case was established that the prosecution has engaged in prohibited conduct. The court's decision was based on two propositions: First, that there was no demonstration that the sole or primary purpose was to obtain additional evidence, rather than to investigate additional charges against the defendant; and second, that the grand jury returned a superceding indictment on October 9, 2019.

The implication of the latter basis was that the return by the grand jury of a superceding indictment demonstrated that the government was not pursuing illegal process. That conclusion does not address the defendant's argument and assertions, nor does it explore the specific allegations set forth and the circumstances described in the motion itself. In effect, the court concluded that the "ends justified the means".

As was indicated in the defendant's initial brief, Mr. Mayes had been under investigation for two years prior to being charged, and the case has been pending for an additional year. The investigation leading up to the indictment apparently did not produce evidence sufficiently satisfying to the prosecution. Therefore, the prosecutor utilized the grand jury to secure further evidence for which they had been foreclosed earlier. It is

anticipated that Mr. Mayes will file further pretrial motions seeking relief from this court as a result of the government's abuse of the grand jury process.

Dated at Milwaukee, Wisconsin this 23rd day of October, 2019.

Respectfully submitted,

/s/ Robert G. LeBell

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